Guide to the Proposed Amendments to the *Liquor Licensing Regulations*

NOVA SCOTIA
Environment and Labour

October 31, 2006

Dear Stakeholder,

The Nova Scotia Government is committed to ensuring that regulations effectively protect the public interest and promote public safety. It is also important that the regulations make sense, and allow businesses to be competitive. The Competitiveness and Compliance Initiative (CCI) is working to improve regulation, so that it is easier for businesses to understand and comply with fair and effective rules.

As part of CCI, Nova Scotia Environment and Labour (NSEL) is working to amend the regulations for liquor sale and consumption. The rules that describe how licensed establishments may operate, the *Liquor Licensing Regulations,* are administered by the NSEL's Alcohol and Gaming Division. The regulations will continue to protect the public's right to quiet enjoyment and ensure that the public input is obtained at key decision points. The amended *Regulations* will be more consistent with current business practices, minimize redundancies, and will be easier for businesses to understand.

In general, the proposed amended *Liquor Licensing Regulations* have been reorganized and streamlined. These updated regulations will enhance Nova Scotia's competitiveness by reducing the regulatory burden on businesses and matching Nova Scotia's liquor licencing practices more closely to those of other Canadian provinces.

The purpose of this guide is to outline some of the most significant proposed changes to the *Liquor Licensing Regulations* in order to invite feedback from people who may be affected by the changes. We ask that you review this Guide and the draft regulations and provide your input to help us move forward with changes that will improve the *Regulations.* For further information, please contact the Policy Division Toll Free at: 1-800-567-7544.

Please send any written comments by December 1, 2006 to:

Proposed Amendments to the Liquor Licensing Regulations
Nova Scotia Environment and Labour
Policy Division
PO Box 697
Halifax, NS
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Thank you for taking the time to review this material and provide input.

Sincerely,

Mark Parent, Minister
Nova Scotia Environment and Labour

Hours of Operation

Under the current Regulations, the maximum hours of sale or service for Cabaret, Beverage Room, Lounge and Club licenses are:

- *Cabaret License*
  Monday - Saturday, 11:00 a.m. - 3:30 a.m. the following day
  Sunday - 4:00 p.m. - 3:30 a.m. Monday

- *Beverage Room License*
  Monday - Saturday, 10:00 a.m. - 1:00 a.m. the following day
  Sunday, 12:00 p.m. - 1:00 a.m. Monday

- *Lounge License*
  Monday - Saturday, 10:00 a.m. - 2:00 a.m. the following day
  Sunday, 12:00 p.m. - 2:00 a.m. Monday

- *Club License*
  10:00 a.m. - 1:00 a.m. the following day, days to be indicated on the license

Proposed change to the Regulations:
For the Cabaret, Beverage Room and Club Licenses, the new maximum hours of operation will be as follows (s. 18):

Cabaret	**Beverage Room**	**Lounge**	**Club**
Sunday hours are extended to 12:00 p.m. Sunday - 3:30 a.m. Monday	Sunday hours are extended to 12 p.m. - 2:00 a.m Monday Hours on all other days are extended to 2:00 a.m the following day.	Sunday hours are extended to 12:00 p.m. - 2:00 a.m Monday	Hours are extended to 10:00 a.m. - 2:00 a.m the following day, Monday through Sunday

What does this change mean?
Extending the hours of operation for these classes of licenses creates a more level playing field for similar types of establishments and brings more consistency to the maximum hours of sale or service across the licensees.

Bring Your Own Wine

The existing regulations do not deal with the emerging business trend of "Bring Your Own Wine" restaurants. The rules in many other provinces allow restaurants to invite patrons to bring their own wine for consumption on the premises, often in exchange for a standard "corkage fee."

Proposed change to the Regulations
A new section has been added to the regulations that allows eating establishments to invite patrons to bring their own wine (s. 68), as long as the wine is an unopened, commercial product. The decision to allow patrons to bring their own wine and the setting of a "corkage fee" are at the discretion of the licensee.

What does this change mean?
Bring Your Own Wine restaurants are now established practices in several other provinces. Changing the rules to allow this type of business improves the competitiveness of Nova Scotia's hospitality industry. Note that Bring Your Own Wine is only allowed at participating eating establishment licensees.

Recorking

Another practice that is common in many other jurisdictions is recorking. Recorking means that, at the patron's request, a licensee may recork an unfinished bottle of wine that the patron wishes to take home.

Proposed change to the Regulations
A new section has been added to the regulations that allows patrons to take an unfinished bottle of wine with them when they leave, as long as the licensee recorked the bottle so that the cork is flush with the top of the bottle (s.65).

What does this change mean?
This change promotes responsible alcohol consumption. Without the pressure of having to finish a bottle of wine, people will not feel obligated to drink more than they should.

Entertainment

There is a strong public interest in ensuring that entertainment is compatible with the quiet enjoyment of neighboring properties, and that it meets the land use requirements of the municipality in which is located. There will continue to be conditions placed on the licensees, which will be a condition of their permanent license with respect to entertainment.

The current regulations include a requirement for all licensees who wish to offer entertainment to the public to have an entertainment permit. This requirement places a financial and administrative burden on licensees.

Proposed change to the Regulations
All licensees who wish to offer entertainment are no longer required to have an entertainment permit, however, when applying for a permanent license applicants must submit information as requested by the Minister of Environment and Labour or the Utility and Review Board (UARB) concerning the nature of the entertainment (s.3(4)). A permanent licensee must obtain approval from the UARB if they wish to change entertainment to something other than what was indicated in the initial licence application (s. 9(1)).

What does this change mean?
Licensees will no longer face the administrative burden and unnecessary red tape of having to obtain an entertainment permit. They are still, however, required to ensure the quiet enjoyment of neighboring properties is maintained by providing information to the UARB or NSEL about the nature of their entertainment.

Under the current regulations, Cabaret licensees are required to provide "high quality entertainment of a calibre not normally available at other licensed establishments, including other cabarets." The shortcoming of this section is its subjective nature. It is difficult to define what type of entertainment meets the "high quality" requirement.

Proposed change to the Regulations
The requirements for a Cabaret licence under the new regulations require that the primary business of the establishment is the provision of live entertainment, at least four days per week. The regulations do not require any particular type or calibre of entertainment, however, the determination of whether or not entertainment is the primary business is decided by the UARB . (s.10)

What does this change mean?
This change removes a section of the regulations that was open to many interpretations and difficult to enforce.

Minors

Under the existing regulations, beverage room, lounge and cabaret licensees are not allowed to employ anyone under the age of 19 years.

Proposed change to the Regulations
S. 54 of the new regulations will allow those under the age of 19 to be employed by beverage room, lounge and cabaret licensees, Note that the employment of minors is subject to the Labour Standards Code. Despite this new allowance, employees under the age of 19 are not allowed to dispense liquor (s.58), although they may be permitted to serve liquor at a patron's table.

What does this change mean?
This proposed amendment creates new employment opportunities for those under age 19, while at the same time protecting their health and safety by limiting any contact with alcohol.

Reporting Requirements

Under the existing regulations, licensees are required to provide monthly reports containing sales of liquor and food (if applicable) to the Alcohol and Gaming Division for audit purposes. The sales data must be separated into sales of food and sales of liquor.

Proposed change to the Regulations
The new regulations will not require licensees to submit monthly reports. Instead, licensees must keep the following records in the licensed premises at all times, for at least three years:

- liquor purchase records
- liquor sales records
- liquor disposal records
- records of the quantity and price of liquor servings
- employee records

What does this change mean?
The change to the rules for reporting removes a large administrative burden on licensees. The Division will continue to monitor these records, at the licensees' premises, however, there will be no requirement to separate food and liquor sales or to photocopy and mail in monthly reports.

Sampling

Under the current regulations, liquor company sales representatives wishing to provide samples of their product to licensees or their staff must purchase their product from the licensee. This will no longer be the case for sampling with staff.

Proposed change to the Regulations
The new regulations allow sales representatives to bring liquor into licensed premises in order to provide samples to licensees and/or their staff. The licensee must be present during sampling and the amount of liquor cannot exceed the amounts per year set in the regulations (s. 69).

What does this change mean?
This change to the Regulations removes an element of regulatory burden on the liquor industry and reflects a more reasonable approach to allowing liquor companies to promote their products. For sampling with restaurant or bar patrons, the manufacturer will have to purchase from the bar, and there will be limits on how much product can be sampled.

Defining Over-Service

Some sections of the current regulations contain a level of ambiguity, making them difficult to understand. For example, s.14 of the regulations states:

> *A holder of a license shall not personally or through any employee, servant, or agent, in or about his licensed premises ,*
>
> *d) permit any person who is or appears to be under the influence of liquor to be on the licensed premises;*
>
> *e) permit liquor to be served in any licensed premises to any person who is or appears to be disorderly or intoxicated.*

Proposed change to the Regulations
Under the new regulations, "under the influence of liquor" has been replaced with the more objective and generally understood standard, "apparently intoxicated by liquor or a drug." (s.59)

What does this change mean?
This change clarifies a section of the Regulations that is highly subjective and open to interpretation. Using a more standard definition of over-service brings Nova Scotia's regulations more in line with regulation in other provinces.

Advertising and Promotions

The existing regulations state that licensees are not allowed to advertise the sale of liquor unless the copy has been approved by the Alcohol and Gaming Division.

Proposed change to the Regulations
The new regulations will allow licensees to advertise liquor prices, hours of sale, names or brands of liquor manufacturers, through any media. The requirement for approval from the licensing authority is removed, and instead, guidelines describing the type of content allowed in advertising are listed in detail (s.82).

What does this change mean?
Removing the requirement for licensees to have prior approval from government for all advertising copy relieves an unnecessary burden on both the licensee and the Alcohol and Gaming Division. The Division will still inspect the advertising to ensure the content meets the guidelines set out in the regulations.

Classes of Licenses

Under the current Regulations there are three types of liquor licenses that do not correspond with the license types in s. 48 of the *Liquor Control Act*: Catering, Military Establishment, and Beer Garden Licenses. The Catering and Beer Garden Licenses are outdated and redundant, while the Military Establishment License is not identified clearly in the *Act*.

Proposed change to the Regulations
Beer Garden and Catering Licences will no longer appear as separate classes in the new regulations. The Catering License will be replaced by the Catering Extension to the Eating Establishment License. The Military Establishment Licence will become a Class B Club License (s. 11,13). Any existing Military Licenses will be called Class B Club Licenses, and remain valid until their expiry date (s. 98)

What will this change mean?
Removing classes of licenses that are no longer in use streamlines the regulations, making them easier to understand. By classifying the Military License under the Club License, unnecessary duplication within the regulations is eliminated.

Other Related Changes

Liquor License Levy

Under the current regulations all licensees, with the exception of special occasion license Class I, are required to pay a 3.5% license fee on the gross value of liquor purchased on the license. The fee covers some of the costs of government's regulatory activity. The levy is difficult to administer and is seen by many in the hospitality industry as a penalty. There are also competitive concerns throughout the region as the levy has been removed in the other Atlantic Provinces. Government's intention to remove the levy was included in the 2006/07 Nova Scotia Government Budget.

Proposed change to the Regulations
The new regulations do not include any requirement for licensees to pay the 3.5% levy on the gross value of liquor purchased. The sections regarding the levy have been removed.

What does this change mean?
Liquor licensees will no longer be required to pay a levy on the gross value of the liquor purchased. This improves the competitiveness of the industry by ensuring Nova Scotian businesses are not penalized and removes the administrative burden that was involved in calculating and auditing the levy.

Gaming Provisions

Under the current regulations there is a provision that allows the AGD enforcement staff to ensure that no holder of a licence or any staff member permits gambling or any use of any game of chance contrary to the Criminal Code or any game that is not in compliance with Board policies and standards. This provision has been the subject of much scrutiny because of Texas Hold'Em Games that have become very popular.

Proposed change to the Regulations
A licensee must ensure that no gaming or betting which is contrary to the Criminal Code is conducted in the licensed premises.

What will this change mean?
This wording clarifies for licensees that the Board does not have policies and standards with respect to "games". It places the onus on the licensee to ensure that no gaming or betting is done in the premises which is contrary to the Criminal Code.